

Appeal from the decision of the Wyoming State Office, Bureau of Land Management, rejecting competitive oil and gas lease offer W-80171.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases:
Discretion to Lease

The Secretary of the Interior has the discretionary authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate. The explanation provided must inform the bidder of the factual basis of the decision and must be sufficient for the Board to determine the correctness of the decision if disputed on appeal.

2. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases:
Discretion to Lease

Where a competitive oil and gas lease high bid is not clearly spurious or unreasonable on its face and the record fails to disclose sufficient factual basis for the conclusion that the bid is inadequate, the decision will be set aside and the case remanded for compilation of a more complete record and readjudication of the bid. A justification memorandum that does not reveal the estimated minimum value for the parcel

and the factual data on which the estimate was based is not sufficient to support rejection of the high bid for the parcel.

APPEARANCES: John D. Amen, Vice President, Snyder Oil Company.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Snyder Oil Company has appealed the decision of the Wyoming State Office, Bureau of Land Management (BLM), dated May 27, 1982, rejecting its high competitive oil and gas lease offer, W-80171, of \$49.95 per acre for parcel 7 at the lease sale held on April 21, 1982, as inadequate. ^{1/} BLM states that a report from the Minerals Management Service (MMS) recommended that the bid not be accepted because there are producing oil wells about 1,600 feet and 2,400 feet northwest of parcel 7 and its evaluation of the parcel places a much higher value on it. See Memorandum dated May 12, 1982, from Deputy Minerals Manager, MMS, to Chief, Branch of Lands & Minerals Operations, BLM.

In its statement of reasons, appellant argues that the decision is inequitable, arbitrary, and capricious, and that its bid was adequate because:

1. These same producing wells were in existence in 1974 at which time the referenced tract was purchased on a similar KGS sale. The high bidder was Mr. Richard Welch with a bid of \$31.26 per acre, which is significantly lower than our present bid of \$49.95 per acre.

2. The subject tract sat idle with no development activity occurring during the previous lease term. We feel this indicates the high degree of geologic risk and the marginal nature of the economics of developing this tract. Hence, the market value for the lease is well within the range of our bid.

[1, 2] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1976); 43 CFR 3120.3-1. This Board has consistently upheld that authority so long as there is a rational basis for the conclusion that the highest bid does not represent a fair market value for the parcel. Harry Ptasynski, 48 IBLA 246 (1980); B. D. Price, 40 IBLA 85 (1979); Frances J. Richmond, 29 IBLA 137 (1977).

MMS is now the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on MMS' reasoned analysis. L. B. Blake, 67 IBLA 103 (1982). When BLM relies on that analysis in rejecting a bid as inadequate, it must ensure that a reasoned explanation

^{1/} Parcel 7 consists of the NW 1/4 SW 1/4 sec. 32, T. 28 N., R. 112 W., sixth principal meridian, Sublette County, Wyoming.

is provided for the record to support the decision. Southern Union Exploration Co., 41 IBLA 81, 83 (1979). Otherwise, if the bid is not clearly spurious or unreasonable on its face, the Board has consistently held that the decision must be set aside and the case remanded for compilation of a more complete record and readjudication of the acceptability of the bid. Southern Union Exploration Co., *supra*; Charles E. Hinkle, 40 IBLA 250 (1979); Yates Petroleum Corp., 32 IBLA 196 (1977). The Board has elaborated on the reasons for this as follows:

[T]he appellant is entitled to a reasoned and factual explanation for the rejection of its bid. Appellant must be given some basis for understanding and accepting the rejection or alternatively appealing and disputing it before this Board. The explanation provided must be a part of the public record and must be adequate so that this Board can determine its correctness if disputed on appeal. Steven and Mary J. Lutz, 39 IBLA 386 (1979); Basil W. Reagel, 34 IBLA 29 (1978); Yates Petroleum Corp., 32 IBLA 196 (1977); Frances J. Richmond, 24 IBLA 303 (1976); Arkla Exploration Co., 22 IBLA 92 (1975).

Southern Union Exploration Co., 51 IBLA 89, 92 (1980).

On the present record we are unable to determine the correctness of the BLM decision on competitive bid W-80171 or the merits of appellant's arguments. The decision is deficient because it did not reveal to appellant the presale evaluation of parcel 7 or the estimated fair market value and the factual data on which it was based. ^{2/} This does not mean the Board will substitute its own judgment for that of the Department's experts in determining what is fair market value for the parcel, but rather that the Board will require sufficient facts and sufficiently comprehensible analysis to insure that a rational basis for the determination is present. M. Robert Paglee, 68 IBLA 231 (1982). Accordingly, we remand this case to BLM for readjudication of appellant's bid. In readjudicating the bid, BLM should consider the arguments presented by appellant in this appeal. If the bids are rejected again, BLM shall set forth the reasons for doing so completely, including the presale evaluation, so they may be addressed by appellant and considered by the Board in event of an appeal.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the

^{2/} In Southern Union Exploration Co., 51 IBLA at 95, we held that the

"[r]efusal to inform a good-faith appellant of the basis for the rejection of a high bid renders the right of appeal, which the Secretary has afforded, virtually meaningless. Regardless of whether or not an exemption is provided by the FOIA which the Department might invoke, we hold that, except to the extent that the release of certain information is prohibited by law, an appellant who has submitted a high bid, which is not clearly spurious, must be informed not only of the estimated minimum values, but the subsidiary factual data which served as the predicate for the derivation of that estimate." (Emphasis in original.)

Wyoming State Office is set aside and the case remanded for further action consistent with this opinion.

Will A. Irwin
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge